

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	Crim. No. 01-455-A
)	Hon. Leonie M. Brinkema
ZACARIAS MOUSSAOUI)	

**MOTION TO AMEND ACCESS OF DEFENSE ATTORNEYS TO CLASSIFIED
NATIONAL SECURITY INFORMATION**

Defendant Zacarias Moussaoui, by counsel, moves this Court to amend the list of defense counsel who are approved by the Court to have access to classified documents and information by adding Capital Resource Counsel Isaiah S. Gant, and in support thereof, respectfully states as follows:

1. On January 22, 2002, this Court entered a Protective Order (the "Order") directing that access to classified documents and information, as required by the government's discovery obligations and otherwise as necessary to prepare for proceedings in this case, be given to specified individuals working on behalf of the defendant. See Order ¶ 12. The Order also requires that any additional persons who need access to classified documents and information obtain "approval [from the Court] for access to the appropriate level of classification on a need to know basis." *Id.* Those persons also must "satisfy[] the other requirements described in [the] order." *Id.*

2. Isaiah S. Gant is one of two Capital Resource Counsel for the Federal Public Defender Programs. He is based out of the Office of the Federal Public Defender for the Middle District of Tennessee. Mr. Gant will be replacing Judy Clarke (the other Capital Resource Counsel) on the Moussaoui defense team as capital-

certified counsel, and accordingly, will have need to review classified material in this case.¹

3. Mr. Gant is currently in the process of applying, through CSO Christine Gunning, for the appropriate security clearance. That process is expected to be completed within the near future. This motion is being filed now so as not to delay the security clearance process, which takes extensive time to complete.

4. Accordingly, it is hereby requested that Isaiah S. Gant be added to the list of defense attorneys set forth in paragraph 12 of the Order subject to compliance with the other terms and conditions of the Order. Pursuant to paragraph 11(b) of the Order, attached is an original signed Memorandum of Understanding for Mr. Gant in which he agrees to comply with the terms of the Order.

5. The government has informed the undersigned that it does not have an objection to this motion. A proposed order is attached.

Respectfully submitted,

ZACARIAS MOUSSAOUI
By Counsel

¹ The undersigned has informed CSO Gunning that the following attorneys and other personnel, who have previously been approved to see classified information in this case, no longer have a need to see such information and should be removed from the list of approved personnel: Judy Clarke, Jeffrey Flax, Jeremy Kamens, Michael Lieberman, Michael Nachmanoff, and Charles Washington.

/S/

Gerald T. Zerkin
Sr. Assistant Federal Public Defender
Kenneth P. Troccoli
Assistant Federal Public Defender
Eastern District of Virginia
1650 King Street, Suite 500
Alexandria, Virginia 22314
703-600-0800

CERTIFICATE OF SERVICE²

I hereby certify that on this 18th day of May, 2005, a true copy of the foregoing pleading was served upon AUSA Robert A. Spencer, AUSA David J. Novak and AUSA David Raskin, U.S. Attorney's Office, 2100 Jamieson Avenue, Alexandria, VA 22314, by placing a copy BY HAND in the box designated for the United States Attorney's Office in the Clerk's Office of the U.S. District Court for the Eastern District of Virginia and BY FACSIMILE upon same to 703-299-3982 (AUSA Spencer), 804-771-2316 (AUSA Novak) and 212-637-0099 (AUSA Raskin).

/S/

Kenneth P. Troccoli

² Pursuant to the Court's order of October 3, 2002 (dkt. no. 594), the instant pleading was presented to the CSO for a classification review before filing. That review determined that the pleading is not classified. A copy of this pleading was not provided to Mr. Moussaoui until after completion of the classification review.

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**MEMORANDUM OF UNDERSTANDING REGARDING RECEIPT OF
CLASSIFIED INFORMATION**

I have familiarized myself with the applicable statutes, regulations, and orders, related to, but not limited to, Title 18 United States Code, including unauthorized disclosure of classified information, espionage and related offenses; The Intelligence Agents Identities Protection Act, Title 50 U.S.C. § 421; Title 18 U.S.C. § 641; Title 50 U.S.C. § 783; 28 C.F.R. 17 et seq., and Executive Order 12356. I understand that I may be the recipient of information and documents that concern the present and future security of the United States and belong to the United States, and that such documents and information together with the methods and sources of collecting it are classified by the United States Government. In consideration for the disclosure of classified information and documents:

(1) I agree that I shall never divulge, publish, or reveal either by word, conduct or any other means, such classified documents and information unless specifically authorized in writing to do so by an authorized representative of the United States Government; or as expressly authorized by the Court pursuant to the Classified Information Procedures Act and the Protective Order entered in the case of United States v. Zacarias Moussaoui, Cr. No. 01-455-A, Eastern District of Virginia.

(2) I agree that this Memorandum and any other non-disclosure agreement signed by me will remain forever binding on me.

(3) I have received, read, and understand the Protective Order entered by the United States District Court for the Eastern District of Virginia in the case of *United States v. Zacarias Moussaoui*, Cr. No. 01-455-A, relating to classified information, and I agree to comply with the provisions thereof.

/S/
Isaiah S. Gant, Esq.
Co-Counsel for Defendant Moussaoui

April 22, 2005
Date